

REMARKS

The Office Action dated has been carefully considered. Accordingly, the changes presented herewith, taken with the following remarks, are believed sufficient to place the present application in condition for allowance. Reconsideration is respectfully requested.

Claims 1-22 and 36-38 are pending in this application. Claims 2-7 and 10-22 have been withdrawn from further consideration as being drawn to nonelected specie. Therefore, only claim 1, 8, 9 and 36-38 are currently under consideration.

Claim 1 has been amended to specify that the fitment is "configured to seal said candle container." Support for this amendment can be found throughout the specification, such as paragraph 54, lines 6-7, of the specification as filed.

Claim 36 has been amended to specify that the rim of the burn control device includes peaks and troughs which define air intake vents "in the rim of the burn control device." Support for this amendment can be found, for example, in paragraph 12 of the specification as filed.

The Examiner rejected claims 1, 8, 9 and 36-38 under 35 USC § 112, second paragraph, as being "incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections." In particular, the Examiner stated that the "fitment" in claim 1 is "vague and indefinite since it is unclear what structure would necessarily make up the 'fitment', applicant having assigned no meaningful structural

detail to the 'fitment'." It is believed that the amendment of claim 1 herein overcomes the rejection of claims 1, 8 and 9 under 35 USC § 112, second paragraph.

With respect to claims 36-38, applicants believe that the rejection under 35 USC § 112 is merely the result of an inadvertent oversight since these claims do not include the limitation of a "fitment" and do not depend from claim 1. Therefore, applicants respectfully believe that claims 36-38 fully comply with 35 USC § 112, second paragraph.

The Examiner also rejected claims 1, 8, 9 and 36-38 under 35 USC § 102(e) as being anticipated by U.S. Patent No. 6,585,510 ("Papai"). Applicants respectfully disagree that Papai anticipates these claims, as amended herein.

With respect to the Papai reference, the Examiner has identified ornamentation (60) positioned on the top surface of the venting plate taught by Papai as a "fitment." The specification of Papai states that "poly resin and ceramic figurines and ornamentation 60 can adorn the top surface of venting plate 30 for decorative purposes." Col. 6, lines 2-4. However, such ornamentation cannot be considered a "fitment" as that term is commonly understood in the container industry (in general, a part of a closure assembly which performs a particular function) and as one skilled in the art would understand that term to mean in the context of claim 1 herein. In addition, claim 1 has been amended to specify that the fitment is "configured to seal said candle container." The ornamentation (60), on the other hand, is not configured in such manner. For these reasons, claim 1, as well as claims 8 and 9 which depend therefrom, are not anticipated by Papai.

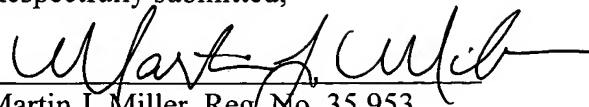
Turning to claims 36-38, claim 36 has been amended to specify that the rim of the burn control device includes peaks and troughs which define air intake vents "in the rim of the burn control device." In contrast, Papai teaches a venting plate (20 in Fig. 3) having a peripheral outer flange (24), an inner baffle (26), and three "mounting bosses" (28) which extend downwardly from the bottom surface (23) of the mounting plate between the outer flange and the inner baffle. In contrast, claim 36 specifies that the rim of the burn control device includes peaks and troughs which define air intake vents in the rim.

In the Office Action, the Examiner has taken the position that the bottom surface (23) of Papai's venting plate is the "rim" and that bottom surface (23) is also the troughs required by claim 36. Applicants respectfully disagree, as the rim of Papai's venting plate is the peripheral outer flange (24), and there are no peaks or troughs in this outer flange. A "rim" is commonly understood to mean the outer edge or border of something, not the bottom surface of a flat plate as the Examiner suggests. Since there are no peaks or troughs in the rim (i.e., outer flange 24) of the venting plate taught by Papai, this reference cannot anticipate claims 36-38 of the present application.

It is believed that the above represents a complete response to the outstanding Office Action, and places the present application in condition for allowance. Reconsideration and an early allowance are requested.

Application No. 10/813,364
Amendment dated December 30, 2005
Reply to Office Action of June 30, 2005

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Martin J. Miller", written over a horizontal line.

Martin J. Miller, Reg. No. 35,953

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